

Transparent Public Procurement Rating

Mongolia

Public Procurement Legislation Assessment

The Assessment of the Public Procurement Legislation of Mongolia was prepared by Public Procurement Partnership NGO in 2018.



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The opinions expressed in this draft document belong to the Institute for Development of Freedom of Information (IDFI) and its partner organizations, and do not reflect the positions of Open Society Institute Budapest Foundation (OSI). Therefore, this organization is not responsible for the content of this report.

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Introduction

The TPPR Methodology is envisioned to be a universal methodology for assessing public procurement legislations (PPLs) with the ultimate goal of identifying the strengths and weaknesses of legal frameworks and their enforcement around the globe.

Structure and Logic

The Methodology is composed of 64 indicators, each of which holds a similar degree of importance. A number of these indicators are further broken down into scoring components.

The Methodology covers all the major components of any public procurement system, from the nature of the legislation to the complaint review process, with focus on the transparency of public procurement systems.

The selection of indicators for the Methodology was largely based on international best practice, international standards and aspects of other existing methodologies in the sphere of public procurement, such as:

- EBRD Methodology and Standard
- GPA Standard (WTO)
- OECD Methodology and Principles
- EU Standard (**Directive 2014/24/EU**)
- Open Contracting Data Standard (OCDS)

Several indicators have been directly taken from one of the sources listed above as examples of best international practice. All of these indicators have been properly referenced.

During the indicator selection and elaboration process, an effort was made to ensure that the Methodology can be used to assess many different kinds of public procurement systems, but at the same time set high standards.

The indicators are separated into 5 groups (benchmark indicators) that represent the key characteristics (values) of a well-functioning, transparent and accountable public procurement system:

1. **Uniformity of the Legislative Framework** – 14 indicators
2. **Efficiency** – 10 indicators
3. **Transparency** – 18 indicators
4. **Accountability and Integrity** – 7 indicators
5. **Competitiveness and Impartiality** – 10 indicators

The methodology also includes 5 indicators that are used to assess legal components **that are not directly part** of the public procurement legislation but are crucial in terms of creating a transparent environment necessary for a proper functioning of any public procurement system. These indicators are grouped separately under '**Transparency Environment**'.

Indicators are also arranged according to the procurement process:

1. **Pre-tendering Phase** – procurement processes leading up to the publication of a notice of intended procurement.
2. **Tendering Phase** – procurement processes between publication of a notice of intended procurement and selection of a tender winner.
3. **Post-tendering Phase** – procurement processes after the selection of a tender winner.

These two arrangements allow for both process and value-based assessments of public procurement legislations.

Limitations

Public procurement systems vary significantly by country. The TPPR Methodology is intended to be applicable on a global scale, meaning that the indicators cannot be too specific and cannot cover all the possible variations and exceptions.

For the same reason, the TPPR Methodology can only be used to assess public procurement legislations on the national level, and it does not include indicators for any industry specific rules.

About the Project

The Methodology has been developed within the framework of the project [Transparent Public Procurement Rating \(TPPR\) – Assessing Public Procurement Legislation and the Enforcement Process in the Eurasian Region](#).

The project was funded by Open Society Institute Budapest Foundation (OSI) and has been implemented by a Georgia-based civil society organization [Institute for Development of Freedom of Information \(IDFI\)](#) together with 5 partner organizations from each country in the Eurasian region covered by the project:

Armenia – [Freedom of Information Center of Armenia](#)

Azerbaijan – [Transparency International \(TI\)](#)

Belarus – [BIPART](#)

Moldova – [Expert-Grup](#)

Ukraine – [Transparency International \(TI\)](#)

In its initial stage, the TPPR project only covers the Eastern Partnership (EaP) Region; however, it plans to scale the methodology up to larger regions in the future.

Scoring System

Each indicator included in the TPPR Methodology is granted equal weight and receives a maximum of 1 point. With a total of 64 indicators, public procurement legislations are rated on the scale of **0 to 64** (converted to percentages for easier understanding and visualization).

Indicators that are further broken down into scoring components are nevertheless worth 1 point. Each scoring component is evaluated separately.

The Methodology uses two ways to distribute points among scoring components of an indicator:

1. **'Scoring method'** is used when scoring components of an indicator overlap (meaning they do not add up as points) or have an unequal distribution of points.
2. **'Point distribution'** is used when each scoring component of an indicator is given an equal share of the overall point granted to that indicator.

This scoring system and the structure of the Methodology allow for the results to be presented in three ways:

1. **Country Overall Results and Rating** – country overall results on the scale of 0-64 are converted into and presented using percentages (0-100%). Countries are then ranked by their overall results.
2. **Results by Benchmark Indicators** – results for benchmark indicators are presented only through percentages, since benchmark indicators include an unequal number of indicators (and, therefore, unequal number of maximum points).
3. **Results by Procurement Process** – results for different phases of the procurement process are presented only through percentages, due to unequal number of indicators included in each phase.

Countries are also ranked and compared by their results for each benchmark indicator.

Visualization

Visualizing the results of the assessment is crucial to the goal of the methodology. For this purpose, the overall points received by each country shall be shown graphically using the scale of 0-100%, divided into 4 quarters of a specific color:

- Low compliance with TPPR Standards – 0% to 25% (red)
- Average compliance with TPPR Standards – 26% to 50% (orange)
- Good compliance with TPPR Standards – 51% to 75% (yellow)
- Excellent compliance with TPPR Standards – 76% to 100% (green)

Visualizations will also include spider graphs depicting country results by benchmark indicators and the procurement process, and multi-colored bar graphs for comparing country results in these categories.

Terminology

This methodology uses universally accepted procurement terminology as well as a few terms of its own design, in order to make key distinctions easier.

Acceptance act – A document signed by parties through which they agree on the terms by which a bargain is concluded.

Bid – Price offered by a tender participant during the bidding procedure.

Bid Security – A refundable amount of money paid by tender candidates validating their participation in a tender.

Coordination – Providing assistance to economic operators and procuring entities to engage in procuring activities.

Day – In the context of this methodology a day implies a calendar day.

Economic Operator – business or other organization which supplies goods, works or services.

Legal entity of public law (LEPL) (Public Legal Entity) – Organization created by the government or a government body, but separated from state management, and performing public authority independent of state control.

Machine-readable – A data format that can be processed (i.e. extract, transform and process) by a computer.

Monitoring – Data collection and analysis.

State non-commercial legal entity – A body governed by public law, having legal personality, not having an industrial or commercial character, and funded or managed, for the most part, by state entities.

Non-competitive procedure (direct procurement) – A type of public procurement procedure that does not involve prior publication of a notice of intended procurement.

Notice of intended procurement – A call for participation in an open tender issued by procuring entities.

Open tender – A type of tender, in which any economic operator can request participation.

Post-tendering phase – procurement processes after the selection of a tender winner.

Pre-tendering phase – procurement processes leading up to the publication of a notice of intended procurement.

Procurement regulatory body – a state body responsible for managing the public procurement system without necessarily incorporating lawmaking and law enforcement functions.

Procuring entity – A state budget and local government entity (including their respective LEPLs and state owned companies).

Public procurement annual plan – A document issued by procuring entities that contains information about all procurements planned within a fiscal year.

Tender – A type of public procurement procedure that involves bidding.

Tender application – An economic operator's official request to participate in a tender that includes all the documents requested by the procuring entity.

Tender candidate – An economic operator willing to participate in a tender.

Tender commission – A group of persons within a procuring entity responsible for conducting procurement (this function can also be performed by a single person).

Tender documentation – A collection of documents containing full information about the procurement, such as its subject-matter, technical requirements/specification, eligibility and evaluation criteria, draft contract conditions etc.

Tender participant – An economic operator that has been allowed to participate in a tender.

Tendering phase – procurement processes between publication of a notice of intended procurement and selection of a tender winner.

TPPR Methodology Indicators

Transparency Environment			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	Business registry is publicly available. – [1 point]	1	www.tender.gov.mn
2.	Budgets of all public procuring entities are publicly available. – [1 point]	1	www.tender.gov.mn
3.	Public officials are required by law to file asset declarations. – [1 point]	1	Relevant regulation
4.	The country has adopted legal provisions ensuring the right to request public information. – [1 point]	1	Law on transparency of information and access to information
5.	Legislation includes provisions regulating whistleblower protection. – [1 point]	0	

Indicators by Procurement Process

General Characteristics of the Procurement System			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>Public Procurement Legislation (PPL), which may include primary and secondary legislation, lays out the basic principles and general framework of the procurement process, makes it operational and indicates how the law must be applied to specific circumstances. – [1 point]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	0.75	<p>There are 15 implementing rules and regulations and 17 Samples of Bidding documents</p> <p>(https://tender.gov.mn/mn/document/list)</p>
2.	<p>PPL (including primary and secondary legislation) is available in a single and accessible place. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] 	1	<p>https://tender.gov.mn/mn/rules/list</p>

	<ul style="list-style-type: none"> None – [0] <p><i>Uniformity of the Legislative Framework</i></p>		
3.	<p>PPL applies to all state budget and local government entities (including their respective Legal Entities of Public Law (LEPLs), state owned companies and non-commercial legal entities) and all exempted entities are clearly indicated. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) All state budget entities – [0.2] b) Local government entities – [0.2] c) Legal Entities of Public Law (LEPL) – [0.2] d) State owned companies – [0.2] e) State non-commercial legal entities – [0.2] <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 0.6</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.2 b) 0.2 c) 0.2 d) 0 e) 0 	<p>PPLM applies not to all state budget entities according to exemptions in PPLM (Clause 3.4-3.9, 45.7) and all State owned companies with more than 50% of state property are covered only as stated in Article 4.</p> <p>“4.1. The following bodies shall be the "Procuring entity":</p> <ul style="list-style-type: none"> 4.1.1. legal entity with state and local ownership; 4.1.2. legal entity with partial state and local ownership of 50% and more; 4.1.3. the project implementing entity defined in provision 3.1.5 of the Law on coordination of foreign loans and assistance.”
4.	<p>The scope of coverage of PPL includes all sectors of the economy where competition is possible and exemptions are clearly listed in the PPL. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) The scope of coverage of PPL includes all sectors of the economy where 	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0 	<p>For a) 3.5. The Law shall not apply to procurement of works and services related to maintenance of national roads, executed by the state owned legal entity pursuant to its powers by law.</p> <p>(Numbering of this provision was changed by the law of June 16, 2011)</p>

	<p>competition is possible. – [0.5]</p> <p>b) PPL clearly lists or refers to all exemptions. – [0.5]</p> <p><i>Uniformity of the Legislative Framework</i></p>	b) 0.5	<p>For b) 3.6. This Law shall not apply to procurement of goods, works and services related to the activities of the Development Bank of Mongolia.</p> <p><i>(This provision was added by the Law of June 16, 2011)</i></p>
5.	<p>PPL determines a separate state body (procurement regulatory body) responsible for managing public procurement or assigns this function to a subordinate public body(ies). – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • PPL determines a separate state body responsible for managing public procurement which is authorized to have income in addition to state funding. – [1] • PPL determines a separate state body responsible for managing public procurement. – [0.75] • PPL assigns this function to a subordinated public body(ies). – [0.5] • There is no responsible state body. – [0] <p><i>Uniformity of the Legislative Framework</i></p>	0.75	<p>Article 53, PPLM regulates the functions of State body in charge managing (organizing) procurement operation of projects that are approved by the Government.</p> <p>“Article 53. State administrative organization in charge of state policy and regulation and its functions / The title of the article is modified by the Law of July 21, 2016 / 53.1. the state administrative body in charge of policy and regulation matters. / This part was amended according to the law dated July 21, 2005 /</p> <p>53.1. The professional purchasing body shall be the Government Implementing Agency to be responsible for organization and implementation of procurement operations entitled by tis Law.</p> <p>53.2. A unit shall be responsible for organizing and implementing the procurement of goods, works and services to be financed from state and local budget under the governors of aimags, the capital city and districts.</p> <p>53.3. Aimag and Capital City governors shall be the head of the Procurement Unit at aimag and capital city governors in charge of</p>

			state property policies and regulations.”
6.	<p>PPL stipulates that the procurement regulatory body is responsible for at least coordination and monitoring (i.e. data collection and analysis as opposed to regulation and control) of public procurement activities. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>PPLM, Article 52(1)(1.1-1.8)</p> <p>52.1. The state central administrative body in charge of budget matters shall exercise the following powers for the state policy, methodology and control on procurement under this law:</p> <p>52.1.1 develop proposals to improve the legislation on procurement;</p> <p>52.1.2. To provide customer with professional and methodological advice regarding procurement;</p> <p>52.1.3. To develop draft rules, procedures, instructions, methodologies and standard documents related to the procurement process and to approve if the law is authorized;</p> <p>52.1.4. Reporting to the Government annually the implementation of the procurement legislation;</p> <p>52.1.5. Monitor and evaluate whether the client is in compliance with the proper procedures for procurement;</p> <p>52.1.6. Consolidate the report submitted by the consumer and create a database on procurement of the state budget, produce consolidated data and information;</p> <p>52.1.7. To review and resolve a complaint submitted by bidders in</p>

			<p>accordance with this law;</p> <p>52.1.8. To provide recommendations and explanations on particular issues in connection with the implementation of this law upon the request of the supervisory body; [...]</p>
7.	<p>Legislation provides for a mechanism of consultation with the private and civil society sectors that is aimed at receiving feedback and identifying problems in the procurement system. PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Legislation provides for a mechanism of consultation with the private sector. – [0.25] b) Legislation provides for a mechanism of consultation with the civil society sector. – [0.25] c) PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [0.5] <p style="text-align: right;"><i>Accountability and Integrity</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.25 b) 0.25 c) 0 	<p>a) Pre-bid meeting (Standard bidding document for procurement of works, Instruction to Bidders, Clause 11. Pre-bid meeting)</p> <p>11.1 If so specified in the BDS, the Bidder's designated representative is invited to attend a pre-bid meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may rise at that stage.</p> <p>11.2The Bidder may submit questions in writing to reach the Procuring Entity before the meeting.</p> <p>11.3Minutes of the pre-bid meeting, including the questions raised and the responses given, together with any responses prepared after the meeting, shall be sent without identifying the source of the questions at the same time by post or by cable to all Procuring Entities of the bidding documents.</p> <p>11.4If the Procuring Entity considers that the pre-bid meeting results in changes to the Bidding Documents, it shall amend the Bidding documents by following the procedure under ITB Clause 12 and ITB Sub-Clause 24.2</p> <p>11.5Nonattendance at the pre-bid meeting will not be a cause for</p>

			<p>rejection of a bid.</p> <p>b) Clause 47.4. PPLM</p> <p>“47.4. For the purpose of providing transparency of procurement activities, the composition of an Evaluation committee shall include representatives of those particular professional associations, not less than two representatives of private sector or non-governmental organization, in provinces, a citizen, appointed by the Citizens’ Representative Assembly of that local area and an officer of the administration office of the Governor.</p> <p>(This provision was edited by the Law of June 6, 2011 and shall be effective from October 1, 2012)”.</p> <p>c) not obligatory</p>
8.	<p>PPL stipulates that electronic means is the primary method of conducting public procurement and of communication between procuring entities and tender participants. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that electronic means is the primary method of conducting public procurement. – [0.5]</p> <p>b) PPL stipulates that electronic means is the primary method of communication between procuring entities and tender participants. – [0.5]</p>	<p>Overall: 0</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p>	<p>Clause 53.7, PPLM</p> <p>“53.7. The professional purchasing body will delegate some particular part of its work to private and professional non-governmental organization, and shall arrange not less than 20% of the total announced tender in the form of e-procurement.”</p> <p>(There is a separate regulation on Use of e-Procurement portal</p>

	<i>Efficiency</i>		
9.	<p>PPL establishes a single official point of access (i.e. an online portal) for all procedures and information related to public procurement. – [1 point]</p> <p><i>Efficiency</i></p>	1	<p>www.tender.gov.mn</p> <p>PPLM, Article 52(1)(12) - Organize the website for the dissemination of information, procurement, and results of procurement, and provide invitations for tender and other information;</p>
10.	<p>Legislation requires that software used for electronic procurement and related communication shall be non-discriminatory, free to use and interoperable with the ICT products in general use and shall not restrict economic operators' access to the procurement procedure. – [1 point]</p> <p><i>Competitiveness and Impartiality</i></p> <p><i>Source: EU Standard</i></p>	0	
11.	<p>PPL ensures that tender candidates must be given equal treatment, without regard to nationality, residency or political affiliation: – [1 point]</p> <p>Point Distribution</p> <p>a) PPL should not allow domestic preferences. – [1/5]</p>	<p>Overall: 4/5</p> <p>Components:</p> <p>a) 0</p>	<p>a) Article 9, 10 and 10¹, PPLM strongly supports domestic industry.</p>

	<p>b) Participation of any candidate or group of candidates is based on qualification. – [1/5]</p> <p>c) Ensures that registration if required does not constitute a barrier to participation in tenders. – [1/5]</p> <p>d) State owned companies are not given any preference. – [1/5]</p> <p>e) Time-periods, including any extension of the time-periods, shall be the same for all interested or participating candidates.– [1/5]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p> <p style="text-align: right;">Source: GPA Standard</p>	<p>b) 1/5</p> <p>c) 1/5</p> <p>d) 1/5</p> <p>e) 1/5</p>	
12.	<p>PPL stipulates that a procuring entity shall, consistent with its own reasonable needs, provide sufficient time (based on the GPA standard - Article XI) for candidates to prepare and submit tender application. – [1 point]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	1	<p>PPLM, Article 24.3,</p> <p>The deadline for submission of bids shall be 30 days or more in the case of open tendering.</p>
13.	<p>PPL stipulates that each procuring entity has a staff member(s) responsible for conducting procurement activities. – [1 point]</p>	1	Article 46 and 47, PPLM

	<i>Uniformity of the Legislative Framework</i>		
14.	<p>PPL references sanctions for violations of the PPL. – [1 point]</p> <p><i>Accountability and Integrity</i></p>	1	Section VII, PPLM
15.	<p>Legislation explicitly defines fraud and corruption / abuse of public office and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption. – [1 point]</p> <p><i>Accountability and Integrity</i></p> <p>Source: OECD Methodology</p>	1	It is defined in Article 4, PPLM and Sample bidding documents (Instruction to bidders)
16.	<p>PPL ensures the right to review (complaints), for all interested parties, including general public, tender participants and potential suppliers. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • PPL ensures the right to review, for general public, tender participants and potential suppliers. – [1] • PPL ensures the right to review, for tender participants and potential suppliers. – [0.75] 	0.25	Article 54,55 and 56, PPLM

	<ul style="list-style-type: none"> • PPL ensures the right to review, for tender participants. – [0.25] • No one has the right to review. – [0] <p><i>Uniformity of the Legislative Framework</i></p>		
17.	<p>PPL ensures the right to review throughout the procurement process. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Complaints can be filed at any time during the procurement process up until the signing of the contract. – [1/3] b) A procurement contract cannot be awarded with a pending complaint. – [1/3] c) A reasonable amount of time should be left between publication of the contract award decision and the signing of the contract, in order to give any stakeholder the opportunity to challenge the award decision. – [1/3] <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 1/3 c) 1/3 	Article 54,55 and 56, PPLM

<p>18. PPL ensures the existence of an independent (from parties involved in a procurement dispute) review body with the authority to review complaints and grant remedies. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL ensures the existence of an independent review body. – [0.7]</p> <p>b) The review body includes civil society members. – [0.3]</p> <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 0.7</p> <p>Components:</p> <p>a) 0.7</p> <p>b) 0</p>	<p>Article 54, 55 and 56, PPLM</p> <p>Article 55. Complaints regarding the procuring entity’s decision</p> <p>“55.1. The tenderer may appeal before tender opening to the Department of Fair Competition and Consumers Protection with the complaint related with breach of the Article 11.2 of this Law, or any violation lead to restriction of competition in the process of preparing tender documents, or to the state central administrative body in charge of budget matters (Ministry of Finance) in case of disagreement with the procuring entity’s decision, the procuring entity did not issue a decision within the time specified in 54.4 of this law, or the procuring entity authorized a contract, within 5 working days respectively. (Change was made to this provision by the Law of June 9, 2011 and shall be effective from October 1, 2012).</p> <p>55.2. The state administrative body in charge of budget matters and the Department for Fair Competition and Consumers Protection shall consider only those complaints submitted prior to signing a contract and issue a ruling in 14 days after receiving the complaint, and it shall be a final decision. (This provision was edited by the Law of June 6, 2011 and shall be effective from October 1, 2012)</p> <p>55.3. The state administrative body in charge of budget matters and the Department for Fair Competition and Consumers</p>
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			<p>Protection shall consider a complaint and issue the following decisions if it considers that the procuring entity breached this law:</p> <p>55.3.1. Annul and/or modify illicit actions or decisions of the procuring entity fully or partially;</p> <p>55.3.2. Declare what provision of the law should be applied in a given case;</p> <p>55.3.3. Demand the procuring entity to carry out the tendering after the breaches are rectified.</p> <p>55.4. The state administrative body in charge of budget matters and the Department for Fair Competition and Consumers Protection may issue a decision to temporarily suspend the implementation of the procuring entity's decision and/or action in the following cases until a ruling is issued for the complaint:</p> <p>55.4.1. If ruling in favor of complainant's interests are more justifiable;</p> <p>55.4.2. If the decisions are not suspended, tenderers may incur significant losses; 55.4.3. if the suspension would not cause significant loss to the state competent authority or procuring entity and other tenderers.</p>
19.	PPL ensures electronic, machine-readable and free of charge access to submitted complaints, either the full text or key information contained in these documents. –		

	<p>[1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0	
20.	<p>PPL ensures electronic, machine-readable and free of charge access to dispute resolutions (of the independent review body), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0	<p>www.mof.gov.mn; www.tender.gov.mn - There is no regulation, however in practice, information is available on these websites.</p>

Pre-tendering Phase			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>PPL obligates procuring entities to publish as early as possible in each fiscal year a notice regarding their future procurement plans - "public procurement annual plan". The annual plan must include at least: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Subject-matters (CPV- or other similar classificatory system) of planned procurements. – [0.25] b) Planned dates (a range of week/month/quarter) of publication of the notices of intended procurement. – [0.25] c) Estimated value of procurements. – [0.25] d) Source of funding. – [0.25] <p style="text-align: right;"><i>Efficiency</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.25 b) 0.25 c) 0.25 d) 0.25 	<p>PPLM Article 48,; Regulation on procurement planning and Budget law of Mongolia</p> <p>PPLM, Article 48(1) - PPLM, each budget governor prepares and submits the draft of annual budget with its draft procurement plan to MOF before 1 August.</p> <p>Please view the template on this link</p> <p>Procedure: https://www.tender.gov.mn/mn/rules/dtl/1510044622276/3 </p>

2.	<p>PPL ensures electronic, machine-readable and free of charge access to public procurement annual plans of all procuring entities or key information included in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0.5	According to Clause 48.1, PPLM, each budget governors prepares and submits the draft of annual budget with its draft procurement plan to MOF before 1 August.
3.	<p>Legislation stipulates that the planning of procurement and estimation of associated expenditures are part of the state budget formulation process in a fiscal year. – [1 point]</p> <p><i>Efficiency</i></p> <p>Source: OECD Methodology</p>	1	According to Article 48.1, PPLM, each budget governor prepares and submits the draft of annual budget with its draft procurement plan to MOF before 1 August.
4.	PPL stipulates that procurement process should not normally be initiated until the	1	Article 46.1.5, PPLM

	<p>appropriate financial resources have been identified. – [1 point]</p> <p><i>Accountability and Integrity</i></p>		<p>Art.46 - The procuring entity shall have the following rights and responsibilities regarding procurement of goods, works and services: [...] 46.1.5. To initiate procurement after approval of the source of financing for the goods, works or services;</p>
5.	<p>PPL defines the composition, powers, responsibilities and decision-making procedures of the body (tender commission or a person) responsible for conducting tender within the procuring entity. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	Article 46, 47, PPLM
6.	<p>Minimum monetary thresholds exist for different types of procurement. – [1 point]</p> <p><i>Efficiency</i></p>	1	Article 8, PPLM
7.	<p>PPL stipulates that open tender is the default procedure for any public procurement, and all exceptions are clearly listed by the PPL. – [1 point]</p> <p>Point Distribution</p> <p>a) Open tender is the default procedure for any public procurement. – [0.5]</p> <p>b) All exceptions are clearly listed by the PPL. – [0.5]</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Article 7, 8, PPLM</p> <p>a) PPLM, Art. 8 (1)(5) - Unless otherwise provided in this law, the rules for open tender shall be used to procure goods, works and services with budgeted cost above the threshold value specified in 8.1.1</p> <p>b) PPLM, Art. 7 (2) - The procedures for selecting open tender</p>

	<i>Competitiveness and Impartiality</i>		shall be followed, except as provided in 7.1.2-7.1.4 of this Law
8.	<p>PPL stipulates that justification for using a non-competitive procedure must be made public by the procuring entity. – [1 point]</p> <p><i>Accountability and Integrity</i></p>	0	
9.	<p>PPL stipulates that provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against foreign suppliers or protects domestic suppliers, a procuring entity may use non-competitive procedure (direct procurement) when: – [1 point]</p> <ul style="list-style-type: none"> a) Where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist. b) For additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; or would cause significant inconvenience or substantial duplication of costs for the procuring entity. c) Insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering. d) Where a procuring entity procures a prototype or a first good or service 	<p>0.5</p> <ul style="list-style-type: none"> a) yes b) yes c) yes d) yes e) N/A 	Article 34, PPLM

	<p>that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development.</p> <p>e) For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers. – [1]</p> <p>Scoring Method</p> <p>In case of any additional exceptions – [0.5]</p> <p><i>Uniformity of the Legislative Framework</i></p> <p>Source: GPA Standard</p>		
Tendering Phase			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include at least: – [1 point]</p> <p>Point Distribution</p> <p>a) Name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating</p>	<p>Overall: 0.9</p> <p>Components:</p> <p>a) 1/8</p>	<p>Article 21 – 25, PPLM</p> <p>All this information (except C) should be stipulated in e.g.: Sample bidding document for procurement of works, Section I. Instruction to bidders, Section II. Bid data sheet, Section IV. Technical Specifications, Drawings and supplementary</p>

	<p>to the procurement, and their cost and terms of payment, if any. – [1/8]</p> <p>b) A description of the procurement, including the nature and the quantity of the goods or services (including construction) to be procured or, where the quantity is not known, the estimated quantity. – [1/8]</p> <p>c) CPV codes (or other classificatory system of a similar nature). – [1/8]</p> <p>d) Estimated value of the goods or services to be procured. – [1/8]</p> <p>e) The time-frame for delivery of goods or services or the duration of the contract. – [1/8]</p> <p>f) The procurement method that will be used. – [1/8]</p> <p>g) The address (where applicable) and any final date for the submission of requests for participation in the procurement. – [1/8]</p> <p>h) A list and brief description of any conditions (eligibility criteria) for participation of candidates, including any requirements for specific documents or certifications to be provided by candidates in connection therewith. – [1/8]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p> <p style="text-align: right;">Source: GPA Standard</p>	<p>b) 1/8</p> <p>c) 0</p> <p>d) 1/8</p> <p>e) 1/8</p> <p>f) 1/8</p> <p>g) 1/8</p> <p>h) 1/8</p>	<p>information and Section VI. Special Conditions of Contract in detail.</p>
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2.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Payment conditions – [0.2] b) Information about bid security (if required) – [0.2] c) Source of funding – [0.2] d) Payment information for multi-year contracts – [0.2] e) Draft of contract – [0.2] <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.2 b) 0.2 c) 0.2 d) 0.2 e) 0.2 	<p>For a) Article 40. Purchase contract, Clause 40.3</p> <p>For b) Article 20 (4). Bid security, Provision 20.4.1</p> <p>For c) Sample bidding document, Section II. Bid data sheet</p> <p>For d) Article 40. Purchase contract, Provision 40.3.8</p> <p>For e) Sample bidding documents and Provision 36.9.5 (for RFP)</p>
3.	<p>PPL defines all eligibility criteria for participation in tender that must include at least: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Capabilities with the respect to personnel, equipment, and construction or manufacturing facilities. – [1/3] b) Financial position. – [1/3] c) Grounds of restriction for participation. – [1/3] <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p> <p style="text-align: right;">Source: EBRD Methodology</p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 1/3 c) 1/3 	<p>PPLM, Article 12 - Evaluation of the ability of tender participant</p> <p>12.1. The general, financial, technical and expertise and experience of interested persons who are interested in participating in tender selection shall be examined in accordance with the indicators specified in Articles 14-16 of this law to provide equal opportunity and to comply with fair competition.</p> <p>12.2. Procuring entity shall define the criteria and requirements for tender selection in accordance with the Articles 14-16 of this Law and shall be included in the tender documents.</p> <p>a) PPLM, Article 16.</p>

			b) PPLM, Article 15. c) PPLM, Article 14.
4.	<p>PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement (drafting of tender documentation) from independent experts or market participants. In such cases, these experts or market participants may not take part or benefit from tenders they helped plan unless it can be demonstrated that there is no conflict of interest (as defined by the national legislation). – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement from independent experts or market participants. – [0.5]</p> <p>b) PPL prohibits these experts or market participants from taking part or benefiting from tenders they helped plan, unless it can be demonstrated that there is no conflict of interest (as defined by the national legislation). – [0.5]</p> <p><i>Efficiency</i></p> <p>Source: EU Standard</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>a) PPLM, Article 5(1)(15)</p> <p>b) PPLM, Article 14(1)(5)</p>

5.	<p>PPL ensures electronic, machine-readable and free of charge access to notices of intended procurement (including tender documentation), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0	
6.	<p>PPL ensures electronic, machine-readable and free of charge access to tender documentation amendments, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] 	0	

	<i>Transparency</i>		
7.	<p>PPL ensures electronic, machine-readable and free of charge access to tender candidate applications (all documents needed for the request to participate in a tender), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0	
8.	<p>PPL ensures electronic, machine-readable and free of charge access to information about the bids offered by tender participant. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] 	0.5	Article 26, PPLM (Bid opening); Regulation on disclosure of bid opening and bidding results (www.tender.gov.mn)

	<ul style="list-style-type: none"> • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
9.	<p>PPL ensures electronic, machine-readable and free of charge access to decisions of the tender commission, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0.5	<p>Clause 52.1, PPLM</p> <p>52.1. The state central administrative body in charge of budget matters shall administer the government policy, practice, and oversight on procurement in accordance with this law and execute the following powers:</p> <p>...</p> <p>“52.1.12. maintain a website for placing information on procurement, tendering announcements and results, determine the manner of posting the invitation to tender and other information”</p>
10.	<p>Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterizes the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production with the effect of favoring or eliminating certain undertakings or certain products. – [1 point]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	1	<p>PPLM, Article 11 -</p> <p>Article 11(1)(3). - The trademark, name, type, type, origin, method of production, producer or supplier is not specified in the terms and conditions;</p> <p>Article 11(1)(4) - If the requirements and conditions set forth in Article 11.1.3 of this law are to be specified, then the "or</p>

	Source: EU Standard		equivalent" clause shall apply.
11.	<p>PPL stipulates that procuring entities may require tender candidates to confirm the validity of their bid with a bid security that is refunded once the procedure is completed. – [1 point]</p> <p><i>Efficiency</i></p>	1	<p>PPLM, Article 20</p> <p>Article 20(2) - Mongolian legal persons shall submit a tender guarantee in the form of bank guarantees or government bonds, foreign legal entities, Mongolian or foreign bank guarantees, Mongolian Government bonds or Mongolia Government securities may be submitted as securities.</p> <p>Article 20(3) - The Government of Mongolia shall establish a list of securities that can be used as a guarantee of tender, performance and advance payments.</p> <p>Article 20(4) – The procuring entity may set the amount of tender guarantee in the following manner:</p> <p>20(4)(1) - To include in tender documents that the tender participant submits a tender guarantee of 1-2 per cent of the tender offer;</p> <p>20(4)(2) - if required, the procuring entity shall set the tender guarantee amount in the tender documents by 1-2% of the cost of the goods, works and services and in the tender documents.</p> <p>Article 20(6) – Procuring entity shall return the tender guarantee after concluding a contract with the tender participant evaluated</p>

			as "best".
12.	<p>Legislation explicitly defines conflict of interest and includes mechanisms for its prevention: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) The concept of conflicts of interest covers at least any situation where staff members of the procuring entity or of a procurement service provider acting on behalf of the procuring entity who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure, have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. – [1/3] b) PPL stipulates that persons responsible for procurement decision-making in procuring entities must declare in writing any conflict of interest with tender participants. – [1/3] c) The legislative framework prohibits the participation of active public officials and former public officials for a reasonable period of time after leaving office in public procurement procedures in ways that benefit them, their relatives, and business or political associates financially or otherwise. – [1/3] <p style="text-align: right;"><i>Accountability and Integrity</i></p> <p style="text-align: right;">Source for a): EU Standard</p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 1/3 c) 1/3 	<p>Clause 47.3, PPLM:</p> <p>“47.3. It is preferred that officials appointed to the evaluation committee would satisfy the following requirements:</p> <p style="padding-left: 40px;">47.3.1. specialized in procurement or related sectors of given goods, services or works;</p> <p style="padding-left: 40px;">47.3.2. not to be a father, mother, spouse, brother, sister, children of the tenderer or its representative;</p> <p style="padding-left: 40px;">47.3.3. not have a labor contract relationship with a tenderer in last 3 years;</p> <p style="padding-left: 40px;">47.3.4. not have any violations of civil servant’s duties specified in 50.1 of this law in last one year.”</p> <p>Clause 50.1, PPLM:</p> <p>“50.1. The civil servant involved in procurement with the duty to plan, prepare, execute, supervise etc, shall have the following duties:</p> <p style="padding-left: 40px;">...</p> <p style="padding-left: 40px;">50.1.4. inform his/her direct supervisor about a potential conflict of interest such a tenderer being his/her family</p>

	Source for b): OECD Methodology		<p>member or his/her family member working for and/or being paid a remuneration from a tenderer and not involve in the organization of a given tendering;</p> <p>50.1.5. promptly inform his/her direct supervisor and legal and supervision authority if a tenderer attempts to influence tendering results by proposing a bribe and putting pressure.”</p> <p>Clause 4.2, Instruction to Bidders, Standard bidding document for procurement of work:</p> <p>“4.2. Bidders shall be considered as ineligible under following conditions (relevant to any member of joint venture):</p> <p>...</p> <p>4.2.6. If the Bidder has been convicted by the court of any corrupt, fraudulent, coercive or collusive practice against the stipulations specified in the Anti-corruption law, Law on Restriction of Unfair Competition and Criminal law in the last 3 years;</p> <p>4.2.7. If a Bidder (including its Subcontractor) prepared the design, technical specifications, and other documents of the works that are the subject of the bid or has common interest with the body who is purposed to be hired by the Procuring Entity to supervise the contract execution or to provide</p>
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			consulting services;”
13.	<p>PPL stipulates that award decisions must be made solely on the basis of evaluation criteria that have been precisely specified in advance in the tender documentation. – [1 point]</p> <p><i>Competitiveness and Impartiality</i></p>	1	Article 28, Clause 27.1 and 29.1, PPLM.
14.	<p>PPL stipulates that upon modification of any criteria and requirements set out in tender documentation prior to the completion of tender application submission period, a procuring entity shall transmit in writing all such modifications: – [1 point]</p> <p>Point Distribution</p> <p>a) To all tender candidates; and – [0.5]</p> <p>b) Give additional adequate time (either by extending or restarting the time) to allow such candidates to modify and re-submit amended tender application. – [0.5]</p> <p><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Clause 11. Amendments to the bidding document, Instruction to bidders, SBD for procurement of works</p> <p>11.1 At any time prior to the deadline for submission of bids, the Procuring Entity may amend the Bidding Documents by issuing addendum.</p> <p>11.2 Any such addendum issued shall be inseparable part of the Bidding Documents and shall be sent at the same time by post or by cable to all Procuring Entities of the bidding documents. The Bidders shall inform by cable that they received the addendum.</p> <p>11.3 In order to allow prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring Entity, in accordance with ITB Sub-Clause 24.2, may extend the deadline for submission of bids.</p>

15.	<p>PPL stipulates that procuring entities shall inform each tender participant of the decision reached about the winner of the tender, including failure to do so, as soon as it is made, but no later than the end of the following working day. – [1 point]</p> <p style="text-align: right;"><i>Transparency</i></p>	1	Article 29, PPLM
16.	<p>PPL ensures that on request from the tender participant the procuring entity shall as quickly as possible inform: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Any unsuccessful tender candidate of the reasons for the rejection of its request to participate (if such approval is required). – [0.5] *** b) Any unsuccessful tender participant of the reasons for the rejection of its bid. – [0.5] <p>*** If a) is not applicable, b) equals [1 point].</p> <p style="text-align: right;"><i>Transparency</i></p> <p style="text-align: right;">Source: EU Standard</p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.5 b) 0.5 	PPLM, Article 29(1)
17.	<p>PPL stipulates that in cases when evaluation criteria include both price and quality, the winner shall be chosen using a cost-effectiveness approach, such as: – [1 point]</p>	<p>Overall: 0.33</p> <p>Components:</p>	Sample bidding document; PPLM Article 28(7)(5)

	Point Distribution <ul style="list-style-type: none"> a) Life-cycle cost – [1/3] b) Best price-quality ratio – [1/3] c) Environmental and/or social costs – [1/3] <p style="text-align: right;"><i>Efficiency</i></p> <p style="text-align: right;">Source: EU Standard</p>	a) 0 b) 1/3 c) 0	
Post-tendering Phase			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>PPL stipulates that upon successful conclusion of tender (upon choosing and announcing of the winner) the following information must be made public as soon as it is available: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Name, type, identification number, address, telephone, fax number (where applicable), email and internet address of the procuring entity and, where different, of the service from which additional information may be obtained. – [0.1] b) Subject of procurement. – [0.1] 	<p>Overall: 0.6</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.1 b) 0.1 c) 0.1 d) 0.1 	<p>Regulation on disclosure of bid opening and bidding results (www.tender.gov.mn)</p>

	<p>c) CPV codes (or other classificatory system of similar nature). – [0.1]</p> <p>d) Description of the procurement: nature, extent, quantity or value of goods, works and services. Where the contract is divided into lots, this information shall be provided for each lot. – [0.1]</p> <p>e) Type of award procedure; in the case of negotiated procedure without prior publication, justification. – [0.1]</p> <p>f) Date of the signing of contract(s) or of framework agreement(s). – [0.1]</p> <p>g) Duration of the contract. – [0.1]</p> <p>h) Number of bids and their respective amounts received. – [0.1]</p> <p>i) Name, address, telephone, fax number (where applicable), email address and internet address of the successful tender participant(s) including: information whether the contract was awarded to a group of economic operators (joint venture, consortium or other) (where applicable). – [0.1]</p> <p>j) Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number (where applicable) and email address of the service from which this information may be obtained. – [0.1]</p> <p style="text-align: right;"><i>Transparency</i></p> <p style="text-align: right;">Source: EU Standard</p>	<p>e) 0</p> <p>f) 0.1</p> <p>g) 0</p> <p>h) 0.1</p> <p>i) 0</p> <p>j) 0</p>	
2.	<p>PPL stipulates that the information on subcontractors must be made public upon successful conclusion of tender (upon choosing and announcing of the winner). – [1 point]</p>	<p>Overall: 0</p> <p>Components:</p>	

	<p>Point Distribution</p> <p>a) Procurement contracts include information on what proportion of the contract can be subcontracted to third parties. – [0.5]</p> <p>b) Information on subcontractor/s (if any): name, address, ID, contact information, is made public as soon as this information is available. – [0.5]</p> <p><i>Transparency</i></p>	<p>a) 0</p> <p>b) 0</p>	
3.	<p>PPL ensures electronic, machine-readable and free of charge access to procurement contracts, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0	(Some framework contracts are available at https://tender.gov.mn/mn/eshop/itemcontract)
4.	<p>PPL ensures electronic, machine-readable and free of charge access to contract amendments, either the full text or key information contained in these documents. – [1 point]</p>	0	

	Scoring Method <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
5.	<p>PPL ensures electronic, machine-readable and free of charge access to contract performance information (acceptance act and milestone reports), either the full text or key information included in these documents. – [1 point]</p> Scoring Method <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	<p>Only for some framework contracts https://tender.gov.mn/mn/eshop/statistic</p>
6.	<p>PPL ensures electronic, machine-readable and free of charge access to payment receipts, either the full text or key information contained in these documents. – [1</p>	0	

	<p>point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
7.	<p>PPL clearly defines the procedures for inspection and quality control procedures: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Quality control (QC) procedures for goods, works and services are well defined in the draft contracts/documents or in the regulations. – [0.5] b) Inspection of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors. – [0.5] <p style="text-align: right;"><i>Efficiency</i></p> <p style="text-align: right;">Source: OECD Methodology</p>	<p>Overall: 0.5</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0 b) 0.5 	<p>Clause 50.1 PPLM:</p> <p>“50.1. The civil servant involved in procurement with the duty to plan, prepare, execute, supervise etc, shall have the following duties:</p> <p>Provision 52.1.14, PPLM</p> <p>“52.1 The state central administrative body in charge of budget matters shall administer the government policy, practice, and oversight on procurement in accordance with this law and execute the following powers:</p> <p>...</p> <p>52.1.14. keep, oversee, and disclose the register of</p>

			<p>bodies whose rights to participate in tendering were restricted as specified in 14.5 of this law.”</p> <p>Article 52¹.1. Procurement State Inspector</p> <p>Clause 4.2, Instruction to Bidders, Standard bidding document for procurement of work:</p> <p>“4.2. Bidders shall be considered as ineligible under following conditions (relevant to any member of joint venture): ...</p> <p>4.2.7. If a Bidder (including its Subcontractor) prepared the design, technical specifications, and other documents of the works that are the subject of the bid or has common interest with the body who is purposed to be hired by the Procuring Entity to supervise the contract execution or to provide consulting services;”</p> <p>SECTION C. Quality control, Provision 30-33, General conditions of contract, SBD for procurement of work</p> <p>“30. Identifying Defects</p> <p>30.1 The Project Manager shall check the Contractor’s work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor’s responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the</p>
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			<p>Project Manager considers may have a Defect.</p> <p>31. Tests</p> <p>31.1 If the Project Manager instructs the Contractor to carry out a test that is not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test cost may be compensated.</p> <p>32. Completion of Remedying Defects</p> <p>32.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period¹ which is defined in the Special Conditions. The Defects Liability Period shall be extended until completion of all works required to remedy defects or damage for as long as Defects remain to be corrected.</p> <p>32.2 After receiving Notification of Defects, the Contractor shall remedy the notified Defect within the length of time specified by the Project Manager's notice.</p> <p>33. Failure to Remedy Defects</p> <p>33.1 If the Contractor fails to Remedy the defects or damage by the notified date of Project Manager, this remedial works have to be executed at the cost of the Contractor and the Project</p>
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¹ Quality guarantee period shall be based on the Civil law and Construction Law of Mongolia

			Manager will calculate the cost.”
8.	<p>PPL ensures electronic, machine-readable and free of charge access to any inspection and quality control reports, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0	
9.	<p>Procedures for acceptance of final products and processing of final payments are clearly defined by the PPL or contract law and are incorporated as standard clauses in contracts. – [1 point]</p> <p><i>Efficiency</i></p> <p>Source: OECD Methodology</p>	1	<p>Provision 40.3.2, PPLM</p> <p>“40.3. The procurement contract must contain the following items in addition to those set forth in 40.2 of this law:</p> <p>40.3.1. contract price;</p> <p>40.3.2. payment terms and conditions;”</p> <p>...</p> <p>Provision 54. Final Payment, General conditions of contract, SBD</p>

			<p>for procurement of work</p> <p>“54.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 28 days of receiving the Contractor’s account if it is correct and complete. If it is not, the Project Manager shall issue within 28 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.”</p>
10.	<p>PPL defines specific procedures for modifying contracts. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	PPLM, Article 40, 41 and 42
11.	<p>PPL stipulates that procurement contract must include dispute resolution procedures. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	Contract law stipulates accordingly

<p>12. PPL stipulates that all procurement related documentation must be maintained: – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • In electronic form for a period of at least 10 years. – [1] • In paper form for a period of at least 3 years. – [0.5] <p style="text-align: right;"><i>Transparency</i></p>	<p>1</p>	<p>Article 49. Procurement Recording, PPLM</p> <p>49.1. The procuring entity shall compile a file for each tendering organized for procurement and safe keep in an archive unit.</p> <p>49.2. The tender file shall consist of the following documents and materials:</p> <p>49.2.1. procurement plan, execution, and commentary if required;</p> <p>49.2.2. rationale for applying a given method except the open procurement procedure;</p> <p>49.2.3. brief description of goods, works or services to be procured and tender documents;</p> <p>49.2.4. correspondence between the procuring entity and tenderer;</p> <p>49.2.5. tenders submitted;</p> <p>49.2.6. minutes of the tender opening, evaluation report, and recommendations to authorize a contract;</p> <p>49.2.7. reason and rationale if the tendering has failed or all tenders have been rejected;</p> <p>49.2.8. decision to authorize a contract, the contract;</p>
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			<p>49.2.9. other documents related to a given tendering;</p> <p>49.2.10. documents related to contract assessment and handover of goods, works, and services.</p> <p>49.3. The documents and materials specified in 49.1 of this law shall be made available to the state administrative body for budgetary issues, legal and supervision authorities, and officials.</p> <p>49.4. The documents and materials specified in 49.2.2, 49.2.6, 49.2.7, and 49.2.8 of this law shall be made available to given tenderers upon their written request.</p> <p>...</p> <p>Provision 23.1.8, Law on archive</p> <p>"23.1.8. documents should be kept in archiving mode for 10 years in state owned and budget entities"</p>
13.	<p>PPL stipulates that public procurement operations must be subject to internal and external audit conducted by qualified specialists. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that public procurement operations must be subject to internal audit conducted by qualified specialists. – [0.5]</p> <p>b) PPL stipulates that public procurement operations must be subject to</p>	<p>Overall: 0.5</p> <p>Components:</p> <p>a) 0</p> <p>b) 0.5</p>	<p>PPLM, Article 52 and 52¹, (inspection)</p>

	external audit conducted by qualified specialists. – [0.5] <i>Accountability and Integrity</i>		
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